

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

RANDAL A. POPLIN, :
Plaintiff :
-vs- : NO. 3:CV-07-1083
: (Judge Kosik)
MICHAEL J. ASTRUE, :
Commissioner of Social :
Security, :
Defendant :
:

MEMORANDUM AND ORDER

AND NOW, THIS 31ST DAY OF MARCH, 2008, IT APPEARING TO THE COURT THAT:

(1) On June 14, 2007, plaintiff filed the above-captioned action pursuant to 42 U.S.C. §405(g) and 42 U.S.C. §1383(c)(3), seeking review of defendant's decision to deny his claim for Supplemental Security Income under Title XVI of the Social Security Act, 42 U.S.C. §1381-1383(d);

(2) The matter was assigned to United States Magistrate Judge J. Andrew Smyser;

(3) In his Report and Recommendation filed on February 25, 2008, the Magistrate Judge recommended that plaintiff's case be remanded to the Commissioner for further administrative action in light of the fact that the decisions of the Commissioner regarding plaintiff's credibility, the rejection of the treating physician's opinions, and rejection of plaintiff's assessment of his own limitations and pain were not adequately explained, as required by *Cotter v Harris*, 642 F.2d 700, 704 (3d Cir. 1981);

(4) No objections to the Magistrate Judge's Report and Recommendation were filed;

AND IT FURTHER APPEARING THAT:

(5) If no objections are filed to a Magistrate Judge's Report and Recommendation, the plaintiff is not statutorily entitled to a *de novo* review of his claims. 28 U.S.C. §636(b)(1)(C); *Thomas v. Arn*, 474 U.S. 140, 150-53 (1985). Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a Magistrate Judge's report prior to adopting it. *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987);

(6) Having examined the Magistrate Judge's Report and Recommendation, we agree that plaintiff's case should be remanded for further administrative action.

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The Report and Recommendation of Magistrate Judge J. Andrew Smyser dated February 25, 2008 (Document 15) is hereby **ADOPTED**;

(2) The plaintiff's case is **REMANDED** to the Commissioner of Social Security; and,

(3) The Clerk of Court is directed to **CLOSE** this case and forward a copy of this Memorandum and Order to the Magistrate Judge.

s/Edwin M. Kosik
United States District Judge